IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.
WRIT PETITION NO.6678 OF 2006

Sunanda S Bagrodia, .. Petitioner.
Vs
The Bank of Rajasthan Ltd
and Ors. .. Respondents.

Mr P.K.Samdani a/w Zube B Kamdin i/b Mr M.G.Gawde, for the petitioner.
Mr Pratik Seksarik a/w Pooja Barsu
i/b Paras Kuhad and Associate, for the respondents.

CORAM : D.B.BHOSALE,J.
DATE : 17.10.2006

PC:

1. Heard the learned counsel for the parties.

2. This writ petition is directed against the order dated 13.9.2006 passed by the Debts Recovery Appellate Tribunal, Mumbai, by which Misc.Appeal No.97 of 2006 filed by the respondent-Bank, has been allowed. By this appeal, the respodnent-Bank had challenged the order dated 8.2.2006 rejecting their application for impleading the legal representatives of defendant no.2, who died on 17.7.2004, to O.A.No.606 of 2001. Mr Samdani, learned counsel for the petitioner, vehemently submitted that the cause shown for condonation of delay in filing the application for setting aside the abatement and for allowing them to implead the legal representatives of defendant no.2 was not sufficient and that no case for condonation of the delay was made out and hence, the order impugned is, ex-facie, wrong and

illegal. I perused the impugned order as well as the order passed by the Debts Recovery Tribunal-II, Mumbai, and other material placed on record. It appears that defendant no.2 expired on 17.7.2004. The petitioner, the wife of the deceased defendant no.2, has placed on record a letter dated 22.7.2004 to contend that immediately after the death of defendant no.2, the respondent-Bank was informed about his death and the obituary appeared in Times of India dated 20.7.2004, disclosing the names of the heirs, was also enclosed with the said letter. On the basis thereof it was vehemently contended that the respondent-Bank had knowledge about the death of defendant no.2 and hence the prayer for condonation of more than one years delay in filing the application ought to have been rejected. I perused the letter dated 22.7.2004 and the said obituary. The respondent-Bank has denied the receipt of this letter. Even if it is accepted that such letter was sent by the respondent-company of which defendant no.2 was the Managing Director, from perusal of the letter it is clear that it does not make any reference whatsoever to the litigation pending between the parties. That apart, the letter was addressed to a branch of the respondent-Bank at Mittal Tower, Nariman Point, Mumbai, whereas the address mentioned in the title of Original Application No.606 of 2001 was of

Jaipur and Cawasji Patel Street, Fort, Mumbai-23. The letter dated 22.7.2004 ought to have been sent on the address appearing in the title of the Original Application and not to the branch which was not handling the litigation between the parties. As held by the Supreme Court in United Bank of India V/s. Karan Bala Devi, AIR 1987 SC 1510, notice to one branch of the Bank is no notice to other branches. Therefore, it is not possible to accept the submission that the letter dated 22.7.2004 informing about the death of Defendant No.2 to the respondent-Bank, was a good notice, which was admittedly not sent to the branch of the Bank dealing with the litigation before the D.R.T. Even if it is assumed that the branch to which the letter was addressed has also some concerned with the litigation still it cannot be overlooked that the letter does not make even indirect reference to the Original Application pending before the Tribunal, besides the fact that it does not mention the names and addresses of the legal representatives of the deceased. It appears that, legally and technically the respondent-Bank came to know about the death of defendant no.2 only when the pursis dated 25.11.2005 was filed by the respondent in the Original Application. Immediately thereafter the respondent-Bank appears to have taken steps to file the application in December 2005 for bringing the legal

representatives on record. In my opinion, the Appellate Tribunal, for the reasons stated in the order, has rightly allowed the application subject to payment of cost of Rs.10,000/-. In the circumstances, no interference is called for under Article 227 of the Constitution of India. The writ petition is dismissed.

. The prayer for stay to this order made by the learned counsel for the petitioner, at this stage, is rejected.

(D.B.BHOSALE,J.)